

The 18th June, 1971

No 6092-4Lab-71/15789.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Municipal Committee, Shahbad (District Karnal).

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No 29 of 1971

between

SHRI GURDIAL SINGH WORKMAN AND THE MANAGEMENT OF M/S MUNICIPAL COMMITTEE,
SHAHBAD (DISTRICT KARNAL)

Present :

Shri J.D. Bakhshi for the workman.

Shri D.B. Rekhi for the management.

AWARD

The Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute between the Municipal Committee, Shahbad (District Karnal) and its workman for adjudication to this Tribunal, —vide order No. ID/4321-25, dated 16th February, 1970 :—

Whether the termination of services of Shri Gurdial Singh is justified and in order ? If not ; to what relief he is entitled ?

On receipt of the reference notices were given to the parties and they have filed their respective statements. A preliminary objection has been raised on behalf of the respondent Municipal Committee that the Octroi Department is not an industry and as such there is no industrial dispute between the parties within the meaning of the Industrial Disputes Act and the present reference is consequently invalid. The following issue arose for determination on the above objection.

“Whether the Octroi Department of the Municipal Committee, Shahbad is not an industry ?”

The parties have led no evidence. Arguments have been addressed at considerable length and I have been referred to a number of authorities on both sides. The contentions put forward on behalf of the workman are :—

- (1) that the Municipal Committee which acts under the Punjab Municipal Act, 1911, functions as a single unit and the transfers and promotions of the employees from the Department to another are permissible.
- (2) that the predominant function of the Octroi Department is to impose, levy and collect octroi taxes on the goods brought from outside within the octroi limits of the Municipal Committee.
- (3) that the taxes so collected by the Octroi Department go into the general Municipal fund out of which several activities are carried on in the public interest thus rendering services of the community at large.

It is, therefore, argued that the Octroi Department which engages itself in the imposition, levy and collection of the Octroi taxes and helps the Municipal Committee in rendering material services to the community at large should be treated as an ‘Industry’ within the meaning of section 2 (j) of the Industrial Disputes Act, 1947. I have been referred to 1960-I-LLJ-523 (Supreme Court) Corporation of City of Nagpur *Versus* its workmen, 1969-II-LLJ-657 (Bombay High Court) Sirur Municipality and its workmen, 1970—Labour Industrial cases 363 (Punjab and Haryana High Court), Workmen of Faridabad Municipal Committee *vs* K.L. Gosain ; 1965-I-LLJ-652 (Punjab High Court), Municipal Committee, Raikot *vs* Ram Lal Jain, 1960-I-LLJ-251, State of Bombay *vs* Municipal Mazdoor Sabha. My attention has further been invited to certain provisions of the Punjab Municipal Act, 1911 and Punjab Municipal Executive Offices Rules.

On the other hand, the case for the Municipal Committee is that the Octroi Department is only discharging regal functions in the matter of collecting the octroi taxes, at the prescribed rates, and as it is not

engaged either in production or distribution of goods nor in rendering any material services to the community. it can not be held to be an "industry" within the meaning of the Industrial Disputes Act. In support of the above contention reliance has been placed upon several authorities reported as 1963-II-LL-J-264 (Bomby High Court) Vasudevan (S) and others and Mital (S.D.) and others, 1957-I-LLJ-720 (Supreme Court) Madras Gymkhana Club Employees Union *Versus* Management Madras Gymkhana Club, 1970 Labour Industrial cases 1172 (S.C.) Safdarjang Hospital *Versus* Kuldip Singh Sethi.

I have very carefully gone through the above authorities and given a considered thought to the contentions raised on both sides. The definition of the term industry, as given in section 2(j) of the Industrial Disputes Act, 1947, reads as under :—

Section 2(j) :

"Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen ;

Hon'ble the Supreme Court was pleased to observe as under in the Madras Gymkhana Club Employees Union *Versus* the management of Madras Gymkhana Club (1967-II-LLJ-720) referred to above :—

"It is, therefore, clear that before the definite work engaged in can be described as an industry, it must be of 'trade' or business, or 'manufacture' character or 'Calling' or must be capable of being described as an undertaking resulting in material goods or material services. Now in the application of the Act, the undertaking may be an enterprise of a private individual or individuals. On the other hand, it may not. It is not necessary that the employer must always be a private individual who carries on the operation with his own capital and with a view to his own profit. The Act in terms contemplates cases of industrial dispute where the Government of a local authority or a public utility service may be the employer. The expansion of the Governmental or municipal activity in fields of productive industry is a feature of all developing welfare States. This is considered necessary because it leads to welfare without exploitation of workmen and makes the production of material goods and services cheaper by eliminating profits. Government and Local authorities act as individuals do and the policy of the Act is to put Government and local authorities on a par with private individuals, but Government can not be regarded as an employer within the Act if the operations are Governmental or administrative in character. The local authorities also can not be regarded as industry unless they produce material goods or render material services and do not share by delegation in Governmental functions or functions incidental thereto. There is no essential difference between educational institutions run by municipalities and those run by universities. And yet a distinction is sought to be made on the dichotomy of regal and municipal functions. Therefore, the words 'undertaking' must be defined as "any business or any work or project which one engages in or attempts as an enterprise analogous to business or trade." This is the test laid down in Banerji's case and followed in the Baroda Borough Municipality cases. Its extension in the Corporation case was unfortunate and contradicted the earlier cases".

Now, a local body like the Municipal Committee is primarily a subordinate branch of Governmental activities which functions for public purposes through various departments. But each and every department of the Municipal Committee can not be held to be an industry as defined under section 2(i) of the Act. Whether a particular department is or is not an industry depends upon the nature of the activities carried on by that department. In the instant case, we are concerned with the Octroi Department of which the predominant function, as already observed, is to impose levy and collect octroi taxes on goods brought within the octroi limits of the Municipal Committee. This activity is manifestly not analogous to trade or business carried on with the object of production or distribution of material goods or rendering of material services to the community at large or part thereof, as observed by the Hon'ble Supreme Court in the Gymkhana Club case referred to above. This is merely a regal function like that of the Income-Tax department, discharged by this particular department of the Municipal Committee by virtue of the delegation of the necessary powers in this behalf by the Government, and as such, it does not fall within the ambit of industry as defined in section 2(j) of the Act. It could, of course, be laid to be an industry if it was engaged in the production or distribution of material goods or in rendering material services to the public. The material services of the nature contemplated by the various authorities cited above may be rendered by some other departments of the Municipal Committee like the Fire Brigade Department, Lighting Department, Water Works Department, Health Department, as held in Nagpur City of Corporation decision. But that is not the case here.

For the reasons aforesaid, I have no hesitation in holding that the Octroi Department of the Municipal Committee, which is not embarked on any economic activity analogous to a trade or business, carried on for the purpose of production or distribution of material goods or for rendering material services to the public at large or any part thereof, is not an industry within the meaning of section 2(j) of the Industrial Disputes Act. The preliminary issue is decided accordingly.

In view of the above, no further proceedings are called for in the case for the simple and obvious reason that the Octroi Department being not an industry, there is no industrial dispute between the parties and the present reference is apparently incompetent. I give up my award accordingly but without making any order as to costs.

Dated : 28th May, 1971.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 534, dated the 31st May, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated: 28th May, 1971.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

JAGDISH CHANDRA,
Deputy Secretary to Government, Haryana,
Labour and Employment Departments.

**AGRICULTURE DEPARTMENT
MARKET COMMITTEE**
The 1st April, 1971

No. 1061-Agr. (II)-4-71/4229.—In exercise of the powers conferred by sub-section 6(1) of section 6 of the Punjab Agricultural Produce Markets Act, 1961, and all other powers enabling him in this behalf, and with reference to Haryana Government notification No. 4955-Agr. II-1-70/679, dated 14th January, 1971, published in HARYANA GOVERNMENT GAZETTE (EXTRAORDINARY), dated 15th January, 1971, issued under section 5 of the Punjab Agricultural Produce Markets Act, 1961, the Governor of Haryana hereby declares the area specified in column 2 of the Schedule below to be notified market area of the Market Committee specified in column 6 thereof for the purposes of the said Act in respect of items of Agricultural Produce specified in the Schedule appended to the said Act.

SCHEDULE

Serial No.	Name of Village	Haibast No.	Tehsil	District	Name of Market Committee
1	2	3	4	5	6
1	Pai	48	Kaithal	Karnal	Kaithal
2	Pilni	27	Do	Do	Do
3	Hibana	49	Do	Do	Do
4	Khanaudu	11	Do	Do	Do
5	Dhos	2	Do	Do	Do
6	Nainam	7	Do	Do	Do
7	Mundhari	6	Do	Do	Do
8	Kakavt	5	Do	Do	Do
9	Fariabad	48	Do	Do	Do

1	2	3	4	5	6
10	Kukur Khundu	47	Kaithal	Karnal	Kaithal
11	Karora	46	Do	Do	Do
12	Chochva	42	Do	Do	Do
13	Baklal	74	Do	Do	Do
14	Rihar	73	Do	Do	Do
15	Mandhwal	71	Do	Do	Do
16	Birbasi	70	Do	Do	Do
17	Basi	70	Do	Do	Do
18	Belauna	72	Do	Do	Do
19	Hasanpur	83	Do	Do	Do
20	Kheri Sharafli	69	Do	Do	Do
21	Chougovwal	86	Do	Do	Do
22	Thal	68	Do	Do	Do
23	Mundh	67	Do	Do	Do

SHER JANG SINGH, Secy.

TOWN AND COUNTRY PLANNING DEPARTMENT

The 17th December, 1970

No. 8028 VDP-70/6784.—In exercise of the powers conferred by section 4(b) of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963, the Governor of Haryana is pleased to declare the area around Shahbad as specified in the Schedule given below and the Drg. No. S.P.P./H/1423/70, dated 16th October, 1970 appended hereto to be a controlled area for the purposes of the said Act :—

SCHEDULE

Area around Shahbad is as under :—

West :—Starting from point 'A' at the inter-section of Ambala-Delhi Railway line and the northern boundary of village Rattangarh ; towards the north along the eastern boundary of Shahbad ; then along the municipal boundary upto 'C' and then again along the municipal boundary towards north up to point 'D'.

North :—From point 'D' further along the municipal boundary towards east up to a point 'E' on the bund at a distance of 13/4 kilometre from the railway line.

East :—From point 'E' paralalled to the railway line at a distance of 13/4 kilometre upto the point 'F' on the northern boundary of village Rattangarh.

South :—From point 'F' towards west along the northern boundary of village Rattangarh upto the starting point 'A'.

(Sd.) M. L. BATRA,

Secretary to Government, Haryana,
Town and Country Planning Department.

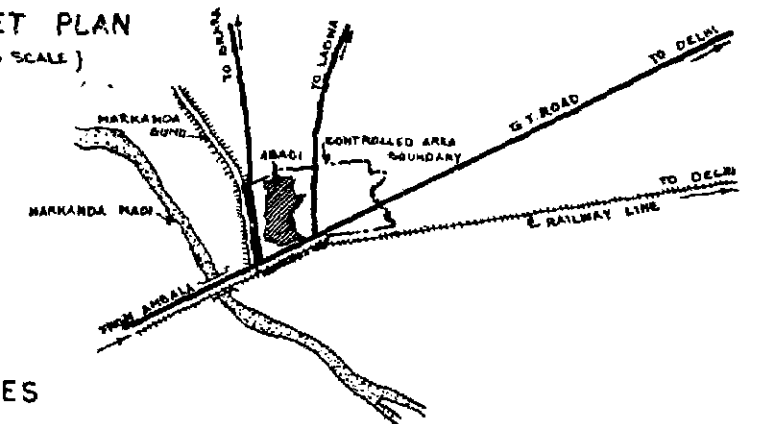
SHAHBAD

CONTROLLED AREA



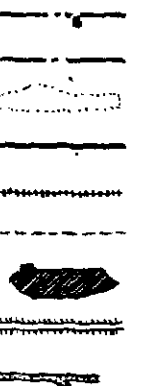
SCALE :- 1" = 1520 FT.

INSET PLAN
(NOT TO SCALE)



REFERENCES

- CONTROLLED AREA BOUNDARY
- M.C. BOUNDARY
- VILLAGE BOUNDARY
- ROADS
- RAILWAY LINE
- KATCHA RASTAS
- VILLAGE ABADI
- BUND
- HALA



OFFICE OF THE SENIOR TOWN PLANNER
HARYANA CHANDIGARH.

DRAWING NO S.T.P./H/1533/70 DT. 16.10.70

DRAWN BY:-
S. Singh

PLANNING ASST. ASSISTANT TOWN PLANNER

Sd/BP Singh
DIVISIONAL TOWN PLANNER

Sd/SP Vohra
SENIOR TOWN PLANNER
HARYANA, CHANDIGARH.

DIRECTOR TOWN & COUNTRY PLANNING
HARYANA, CHANDIGARH.

(73/CS - Govt. Press Chd.)

